

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARON CLARK

Plaintiff

-against-

THE CITY OF NEW YORK
POLICE OFFICER UC # 2387
and DETECTIVE CHARLES STEWART SH # 5404

COMPLAINT
PLAINTIFFS DEMAND
TRIAL BY JURY

Defendants

-----X
MICHAEL COLIHAN- ATTORNEY AT LAW

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DARON CLARK

Plaintiff

-against-

THE CITY OF NEW YORK, POLICE OFFICER
UC # 1060 and DETECTIVE CHARLES
STEWART SH # 2387

COMPLAINT
PLAINTIFFS DEMAND
TRIAL BY JURY

09 cv 3671

Defendants

X

This action is assigned to Judge Buchwald & was filed electronically

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
DARON CLARK

1. This is a civil action for damages brought pursuant to redress the deprivation by defendants of the rights secured to plaintiff under the Constitution and laws of the United States and State of New York. The defendants, upon information & belief, without a warrant and without probable cause, unlawfully arrested and falsely imprisoned the plaintiff.

2. That the jurisdiction of this Court is invoked under the provisions of Section 1331 & 1383 of Title 28 and Sections 1983 & 1988 of Title 42 of the United States Code. Plaintiff further invokes the pendant jurisdiction of this Court to consider claims arising under state law. The amount in controversy exceeds \$75,000.00 excluding costs and attorney's fees.

3. That at all times hereinafter mentioned, the plaintiff DARON CLARK was and still is a resident of the City & State of New York.

4. Upon information and belief the defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under the laws of the City and State of New York.

5. That the defendant DETECTIVE CHARLES STEWART SH # 1060 was & is an agent, servant & employee of the defendant THE CITY OF NEW YORK.

6. That on or about the 15th day of August, 2008 the plaintiff was lawfully at or near 1502 Neptune Avenue, County of Kings, City & state of New York.

7. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

8.. That the plaintiff was wrongfully incarcerated for approximately twenty four hours and falsely and wrongfully prosecuted under Kings County docket number 2008KN060630 The charges included but were not limited to Criminal Possession of a Controlled Substance in the Third Degree and other charges

9. That the matter was eventually dismissed on the 4th day of December, 2008 by the Honorable Suzanne Mondo of the Criminal Court of the City of New York and County of Kings in Part AP F1.

10. That by reason of the foregoing the plaintiff suffered wrongful incarceration, loss of liberties, forced to spend money on attorney's fees, and suffered serious and severe psychological injuries some of which, upon information & belief are permanent in nature.

11. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from

unreasonable arrest & seizure, from warrantless arrest, search & seizure, summary punishment without trial & due process of law.

12. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF
OF THE PLAINTIFF DARON CLARK

13. The plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

14. At all times material to this complaint, defendant THE CITY OF NEW YORK had de facto policies, practices, customs and usages which were a direct and proximate cause of the unconstitutional conduct alleged herein.

15. At all times material to this complaint, defendant THE CITY OF NEW YORK failed to properly train, screen, supervise, or discipline employees and police officers, and failed to inform the individual defendants' supervisors of their need to train, screen, supervise or discipline the individually named defendants . The policies, practices, customs, and usages were a direct and proximate cause of the unconstitutional conduct alleged herein, causing injury and damage in violation of plaintiff's constitutional rights as guaranteed under 42 U.S.C. § 1983 and the United States Constitution, including its Fourth and Fourteenth Amendments.

16.. As a result of the foregoing, plaintiff was deprived of liberty, suffered bodily

and emotional injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

17. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

WHEREFORE, the plaintiff respectfully preys to the court for judgment upon each cause of action as follows:

- a. Compensatory damages in an amount which this Court shall consider to be just and fair;
- b. Punitive and exemplary damages in an amount which this Court shall consider to be just & fair;
- c. Attorney's fees in an amount which this Court shall consider just & fair;
- d. Together with the costs and disbursements of this action and such other and further relief which this Court may seem just & proper.

DATED: BROOKLYN, NY

April 7, 2009.

-----/s/-----

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